



IN BRIEF

SB 798 is the sunset bill for the Medical Board of California and Osteopathic Medical Board of California, proposing changes stemming from the sunset review oversight of these entities.

THE PROBLEM

This bill is a “sunset bill”, necessary to make changes in order to improve oversight of physicians and surgeons and osteopathic physicians and surgeons while continuing the operation of the Medical Board.

The Senate BPED and Assembly B and P Committees conducted an oversight hearing on February 27, 2017 to discuss possible legislative changes based on recommendations from staff of the Committees reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

SB 798 is necessary to ensure continued oversight of physicians and surgeons by the Medical Board and osteopathic physicians and surgeons by the Osteopathic Medical Board.

SUMMARY

SB 798 extends the operation of the Medical Board and Medical Practice Act until 2022 and subjects the Osteopathic Medical Board and Osteopathic Act to review by the appropriate policy committees of the Legislature, to be performed as if that Act were scheduled to be repealed as of 2022.

The bill also includes a number of patient protection measures to assist the Boards in performing their mission of protecting the public. The bill:

- Requires the Boards to provide information to an inquiring member of the public, and on any board documents like newsletters, about licensees on probation and licensees practicing under probationary licenses.
- On and after July 1, 2018, requires licensees of these Boards (physicians and surgeons and osteopathic physicians surgeons) who are on probation for serious violations like sexual misconduct, drug or alcohol abuse during practice

and a criminal conviction involving the practice of medicine to provide a patient or the patient's guardian or healthcare surrogate with a disclosure that contains:

- the licensee's probationary status
 - the length of the probation and the end date
 - all practice restrictions
 - the Board's phone number and an explanation of how the patient can find further information about the licensee's probation on the licensee's profile page
- Requires notification of probation status and terms for physicians and surgeons on probation after previously being ordered to probation and in cases the Boards believe are necessary.

The current language in this bill reflects what the Medical Board of California requested at their April 27 meeting.

There are further amendments being taken before the Assembly B and P Committee bill hearing on July 11 that reflect discussions with the California Hospital Association and make changes to ensure the Administrative Procedures Act and due process are appropriately captured.

- Authorizes the Medical Board to seek cost recovery from physicians found in violation of law so the Board can recoup resources utilized for enforcement of these cases, which is currently allowed for every other board.
- Changes the postgraduate training requirements for licensure from one or two years of postgraduate training to three years of postgraduate training to ensure that licensed physicians have the training necessary to carry out their responsibilities.

Discussions are still taking place with the Boards to ensure that there are no unintended consequences to these postgraduate training requirements

and that residents can still moonlight and prescribe under the authority of their residency program.

- Requires accredited outpatient surgery settings to report data to the Office of Statewide Health Planning and Development (OSHPD). Updates reporting requirements for adverse events in outpatient surgery settings.

Discussions are still taking place with Cal-Derm, CMA, OSHPD and the Medical Board about whether further clarifying changes need to be made to ensure that physician-owned accredited settings are not burdened with capturing data they are not already providing accrediting agencies.

- Replaces "promptly" with "automatically" for the MBC to revoke the license of an individual required to register as a sex offender.
- Authorizes the Medical Board to issue a cease practice order in cases where the licensee delays, or fails to comply with, an order to order a physician to undergo a physical or mental health examination when the Board determines, through the course of an investigation, that a licensee's ability to practice may be impaired by physical or mental illness.
- Prohibits the use of expert witness testimony in matters before the Medical Board unless a complete expert witness report is received 90 days after an accusation is filed.

Discussions are pending with CMA and the Medical Board to ensure that this change provides a balanced timeframe for the Board to receive complete reports in a timely manner and for physicians to build their cases.

- Transfers registration of research psychoanalysts from MBC to the Board of Psychology (BOP) which already successfully administers registration programs for individuals practicing similar disciplines.

Amendments will be taken before the Assembly B and P Committee bill hearing on July 11 to delete these changes and keep status quo, pursuant to discussions with USC.

- Deletes provisions in the Government Code that require certain complaints referred for investigation to be simultaneously and jointly assigned to a Health Quality Investigations Unit investigator and to a deputy attorney general within the Office of the Attorney General.

Amendments will be taken before the Assembly B and P Committee bill hearing on July 11 to place intent language to establish a vertical enforcement and prosecution model. Further discussions with the Medical Board, Office of the Attorney General and interested parties like CMA and the Center for Public Interest Law will continue on this topic.

- Authorizes MBC to once again appoint members to the board of the Health Professions and Education Foundation which administers the Steven M. Thompson Physician Corps Loan Repayment Program.
- Authorizes OMBC to obtain criminal history information from the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI).
- Aligns the OMBC continuing medical education (CME) cycle with the with the renewal cycle for D.O. licenses.
- Adds licensed midwives (LMs) and midwifery societies to peer review provisions and authorizes LMs to be shareholders, officers, and directors of corporations.